

Remarks

Claims 1, 3, 5-8, 11, 12, 16, and 18 are pending in the application. The specification is amended above in accord with the Examiner's suggestions set forth on page 2 of the Office Action, for which Applicants hereby express their gratitude. Applicants confirm that the references to Chinese patents in paragraphs 5 and 6 of the specification contain typographical errors, which are corrected above. Copies of the Chinese patents are provided herewith, pursuant to the Examiner's request, along with English translations of their disclosures. Claim 16 is amended above to remove a duplicative phrase, as noted by the Examiner, and for which Applicants hereby express their gratitude. Upon entry of the foregoing amendments, Claims 1, 3, 5-8, 11, 12, 16, and 18 remain pending before the Examiner.

Applicants note that the summary cover sheet which accompanied the latest Office Action indicates that the Action is final. However, nowhere in the text of the Office Action is there any indication that the Examiner considers the Action to be final, and in fact it would be improper to make the Action final based on the new grounds of rejection as recognized by the Examiner in the first paragraph on page 2 of the Office Action. Accordingly, Applicants respectfully request clarification and note that they are treating this Action as **non-final**.

The objections to the specification and Claim 16 set forth at pages 2-3 of the Office Action have been obviated by the above amendments. Reconsideration is respectfully requested.

In response to the double patenting rejection set forth at pages 3-4 of the Office Action, Applicants submit herewith a Terminal Disclaimer over U.S. Patent No. 6,562,350 B1 (Wang *et al.*) which is commonly owned with the subject application. Reconsideration is respectfully requested.

Applicants respectfully traverse the §112, second paragraph rejection of Claim 18 as indefinite set forth at page 4 of the Office Action. Claim 18 does recite the limitation "said lyophilizing step" in line 1. However, Claim 18 depends from Claim 16, which in turn depends from Claim 6. Therefore, there is antecedent basis for this limitation. Further, Claim 18 is not a duplicate of Claim 11, because Claim 16 adds additional limitations which specify various

amounts of stabilizer constituents. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Applicants respectfully traverse the §112, first paragraph rejection of the claims set forth at pages 4-7 of the Office Action. In support of the traversal, Applicants note that live attenuated hepatitis A virus strain L-A-1 has been deposited at the China Center for Type Culture Collection, Wuhan, China under CCTCC designation No. V92004 in accord with the terms of the Budapest Treaty. Further, Applicants assert that all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent. Accordingly, Applicants respectfully assert that the claimed invention is enabled, and reconsideration of this rejection is respectfully requested.

Finally, Applicants respectfully traverse the §103 rejections set forth at pages 7-10 of the Office Action. Each of these rejections is based on a combination of the '772 patent and the '906 patent. Neither of these patents suggests using hepatitis A virus strain L-A-1 as claimed in the subject invention. The '906 patent is relied upon in the Office Action as teaching an equivalent of strain L-A-1, which Applicants strenuously dispute. The '906 patent teaches making deletion mutants from hepatitis A virus strain HM-175, and thus is deficient in at least two respects. First, the deposited strain L-A-1 of the subject invention is known to be and is inherently distinct from strain HM-175. Second, the cited reference teaches that HM-175 must be subjected to deletion mutations to be effective, in contrast to the claimed invention. Accordingly, there is no suggestion in the art to produce the claimed invention. Nor is there any expectation of success, provided, because the '906 patent teaches the importance of deletion mutations. Since the claims are all restricted to compositions and methods limited to the deposited L-A-1 strain, it is not rendered obvious by any combination of the cited references. Accordingly, Applicants respectfully request reconsideration and withdrawal of the obviousness rejections set forth at pages 7-10 of the Office Action.

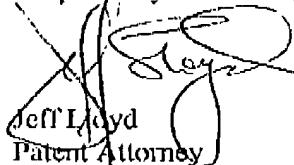
In view of the foregoing remarks and amendments to the claims, Applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Docket No. CCP-100
Serial No. 09/807,783

Applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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Attachments: CN Patent Nos. 89106580.6 and 92114998; Terminal Disclaimer; Petition for Fee for Extension of Time.